

Section-by-Section Summary
Veterans Disability Benefits Claims Modernization Act of 2008, H.R. __

PURPOSE:

To modernize the Department of Veterans Affairs (VA) disability benefits claims processing system to ensure the accurate and timely delivery of compensation to veterans, their families, and survivors.

Section 1 - SHORT TITLE

- This Act may be cited as the “Veterans Disability Benefits Claims Modernization Act of 2008.”

Section 2 – FINDINGS

1. At the end of fiscal year 2007, there were nearly 24 million American veterans.
2. According to the latest Annual Report from the Veterans Benefits Administration (VBA), there were 3,582,255 veterans and survivors receiving compensation and pension benefits at the end of fiscal year (FY) 2006.
3. The number of veterans at the end of fiscal year 2006 included 2,725,824 veterans receiving service-connected disability benefits; 325,939 survivors receiving service-connected death benefits; 329,856 veterans receiving non service-connected disability benefits and 200,636 survivors receiving non service-connected death benefits.
4. During fiscal year 2006, almost 250,000 beneficiaries began receiving benefits with 162,805 of these being veterans whose compensation claims were granted.
5. Since October 1, 2001, the number of claims for new or increased benefits has risen sharply, exceeding 838,000 in 2007.
6. The Department of Veterans Affairs projects that the number of claims will surpass one million by the end of FY 2008.
7. The number of pending disability compensation claims stands at nearly 650,000, about a quarter of which have been backlogged for over six months.

8. Processing times have increased from an average of 177 days in 2006 to 183 days in 2007.
9. The paper-based, labor-intensive process leaves many disabled veterans and survivors waiting months or years for their earned benefits.
10. The most prevalent conditions that are service connected are auditory with almost 840,000 veterans receiving compensation followed by musculoskeletal and arthritis.
11. Posttraumatic Stress Disorder (PTSD) is the sixth most common condition with 269,399 service connected veterans.
12. In 2006, the Veterans Health Administration treated 345,713 veterans with PTSD, which was an increase of 27,099 over 2005 and included 34,000 veterans who served after October 7, 2001.
13. Disabilities are evaluated in accordance with the VA Schedule for Rating Disabilities (VASRD) in Title 38, United States Code of Federal Regulations, Part 4.
14. This schedule originally created in 1917 was last comprehensively revised in 1945.
15. The VASRD contains many outdated and archaic criteria and lacks more commonly accepted medical practices and procedures.
16. Studies conducted by the Institute of Medicine found it to be an inadequate instrument for compensating disabilities for the average impairments of earning capacity, especially in the areas of mental health, unemployability, and for younger severely injured and recommended it be revised using more modern medical concepts.
17. The Department of Veterans Affairs (VA) must modernize the claims processing system of the Veterans Benefits Administration to make it a first-class, veteran-centered system that uses 21st century technologies and paradigms and reflects the dignity and sacrifices made by disabled veterans, their families, and survivors.

TITLE I – MATTERS RELATING TO MODERNIZING THE DISABILITY COMPENSATION SYSTEM OF THE DEPARTMENT OF VETERANS AFFAIRS

- Sec. 101. Service-Connection Presumption – Would create a presumption of a stressor based on combat, campaign or expedition service for veterans diagnosed with posttraumatic stress disorder (PTSD) upon enactment.
- Sec. 102(a). Rating Schedule Revision – Would require Secretary to adjust the VA Schedule for Rating Disabilities (VASRD).
- Section 102(b). Would require Secretary to conduct a study on adjusting the VASRD taking into account loss of quality of life and loss of earnings capacity within 180 days of enactment
- Section 102(c). Would require submission of a plan and timeline to Congress that readjusts the VASRD using current medical and technological concepts, practices, and standards and requires implementation within 3 years within 120 days after completion of the study. Progress reports would be due to Congress every six months.
- Sec. 102(d). Disability Benefits Advisory Panel -- Would require the establishment of a VASRD 18-member Advisory Panel of leading experts who will advise Secretary on revising and readjusting the VASRD.
- Sec. 103 (a & b). Study, Evaluation of VA's Work Credit System- Would require Secretary to conduct a study on its work credit system focusing on improving the quality, performance, accuracy of claims and use information technology and report to Congress on how it plans to implement a new system for measuring work production within 180 days of enactment.
- Sect. 103(c). Would require Secretary to suspend the work credit system if it does not devise a new system for measuring work production.
- Sec. 104. Study on Work Management System – Would require Secretary to conduct a study and report on the work management system of the VBA (currently CPI) focusing on increasing accountability of claims processing to Congress within 180 days of enactment.

- Sec. 105. Certification and Training – Would mandate a certification examination of relevant VBA claims processing personnel and managers and would require the Secretary to contract with an outside entity to conduct an evaluation of VBA’s training and quality assurance programs within 180 days enactment.
- Sec. 106. Quality Assurance Program – Would amend title 38, Section 7731, to require the Secretary to contract for an annual quality assurance assessment that measures a statistically valid sample of VBA employees and their work product for accuracy, consistency, and reliability and to track trends. This information gathered would also be used to inform training and certification requirements under Section 105 of the bill.
- Sec. 107. Fully Developed Claims/Duty to Notify Checklist – Would amend title 38, subchapter I of chapter 51 to require the Secretary to set a policy within 180 days of enactment for veterans to be able to submit claims and declare them fully developed and “ready to rate” at the time of submission and receive a rating within 90 days.
- Sec. 107(b). Would amend VA’s duty to notify under title 38, section 5103(a), and would require the Secretary to create a checklist for claims specific requests of additional evidence.
- Sec. 108. Study and Report on Employing Medical Professionals at the VBA – Would allow the Secretary 90 days to study the parameters for the VBA to hire medical professionals to assist the VBA personnel responsible for processing and adjudicating claims as a reference resource, but not to contribute to the rating or to influence rating decisions.
- Sec. 109. Temporary Ratings – Would codify the requirement for VA to provide temporary ratings for severely and very severely injured veterans to be rated on the most obvious conditions while deferring other issues for which a rating is not immediately assignable within 30 days of enactment.
- Sec. 110. Information Technology – Would require the Secretary to develop a plan to implement comprehensive information technology upgrades, including web portals, rule-based expert systems, and decision support software within one year to enhance its claims processing capabilities and to rate claims within the time period VA identifies in its Annual Performance Report to Congress.

- Sec. 111. Claimant's Death Substitution – Would amend title 38, Section 5121 to allow an eligible survivor to become a substitute claimant upon the death of a veteran in order to continue the claim and to submit additional evidence up to one year after death of veteran. Would be effective upon enactment.

TITLE II - MATTERS RELATING TO TRANSITION FROM SERVICEMEMBER TO VETERAN

- Sec. 201. Pilot Study Single Exam Creation – The Secretaries of VA and the DoD would be required to provide an interim report in 3 months of the date of enactment and a final report within 6 months of enactment on the results of a pilot study for a single DoD/VA exam chartered under the FY2008 NDAA and the recommendations of other reports.
- Sec. 201. (b)(1) Single Exams – Would ensure implementation of a single disability examination process in which the Secretary of DoD would determine fitness for duty and the Secretary of VA would determine the rate of severity of disability. Would be required to occur within 1 year of enactment.
- Sec. 201. (b)(3) Exam Funding – Would require VA and DoD to share in the costs of the exam process.

TITLE III – MATTERS RELATING TO THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

- Sec. 301. Annual Report – Mandates the Court to report additional workload data to Congress upon enactment.
- Sec. 302. Court of Appeals for Veterans Claims Authority – Modifies the jurisdiction and finality of the Court's decisions on veterans' claims to require the Court to decide all issue presented except in the case of a reversal.